

**TESTIMONY FOR THE RECORD**

**SUBMITTED BY JOHN L. NAU, III  
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**TO THE SUBCOMMITTEE ON FEDERALISM AND THE CENSUS,  
HOUSE COMMITTEE ON GOVERNMENT REFORM,  
THE HONORABLE MICHAEL R. TURNER, CHAIRMAN**

**OVERSIGHT HEARING ON HISTORIC PRESERVATION AND HURRICANE  
KATRINA**

**NOVEMBER 1, 2005**

**SUMMARY STATEMENT**

The Gulf Coast region's historic properties are extremely important, not only as a significant representation of the Nation's architectural and historical heritage, but also as key economic assets that make substantial contributions to the quality of life in these communities as well as to the local, state, and national economy as major attractions for visitors through heritage tourism.

While Federal agencies and offices are the ultimate decision-makers in regard to their undertakings, the Advisory Council on Historic Preservation (ACHP) is responsible for ensuring that Federal or federally-assisted actions taken in the wake of Hurricanes Katrina and Rita adequately consider the effect of those actions on properties that represent our nation's history and are listed in or eligible for listing in the National Register of Historic Places. Congress should routinely and as a national priority ensure adequate funding and support for both immediate and long-term efforts in disaster recovery as well as disaster preparedness by adequately supporting the programs and staff of the State Historic Preservation Officers (SHPOs), as provided in the National Historic Preservation Act (NHPA), through the Historic Preservation Fund. Better preparation for exigencies like these hurricanes will result, and damage assessment and recovery efforts in future disasters will benefit historic resources and the public far more effectively than having to respond in a crisis situation. Better pre-disaster support will vastly improve governmental response when these unpredictable but unavoidable situations occur. Sufficient capacity for SHPOs and local preservation agencies is essential for efficient recovery and reconstruction.

## BACKGROUND

Title II of the NHPA established the ACHP, which is an independent Federal agency. NHPA charges the ACHP with advising the President and the Congress on historic preservation matters and entrusts the ACHP with the unique mission of advancing historic preservation within the Federal Government and the national historic preservation program. The ACHP's authority and responsibilities are principally derived from NHPA. General duties of the ACHP are detailed in Section 202 (*16 U.S.C. 470j*) and include:

- Advising the President and Congress on matters relating to historic preservation;
- Encouraging public interest and participation in historic preservation;
- Recommending policy and tax studies as they affect historic preservation;
- Advising State and local governments on historic preservation legislation;
- Encouraging training and education in historic preservation;
- Reviewing Federal policies and programs and recommending improvements; and
- Informing and educating others about the ACHP's activities.

Under Section 106 of NHPA (*16 U.S.C. 470f*), the ACHP reviews Federal actions affecting historic properties to ensure that historic preservation needs are considered and balanced with Federal project requirements. It achieves this balance through the "Section 106 review process," which applies whenever a Federal action has the potential to impact historic properties. As administered by the ACHP, the process guarantees that State and local governments, Indian tribes, businesses and organizations, and private citizens will have an effective opportunity to participate in Federal project planning affecting important historic properties. Through its administration of Section 106, the ACHP works with Federal agencies, States, tribes, local governments, applicants for Federal assistance, and other affected parties to ensure that their interests are considered in the process. It helps parties reach agreement on measures to avoid or resolve conflicts that may arise between development needs and preservation objectives, including mitigation of harmful impacts. Section 106 is also a primary means for individuals, local organizations, the private sector, and local, community, Tribal, State, and regional entities to ensure that their historic preservation concerns regarding Federal undertakings are given proper consideration.

Under Section 211 of NHPA (*16 U.S.C. 470s*) the ACHP is granted rulemaking authority for Section 106. The ACHP also has consultative and other responsibilities under Sections 101, 110, 111, 203, and 214 of NHPA, and in accordance with the National Environmental Policy Act (*42 U.S.C. 4321 et seq.*) is considered an agency with "special expertise" to comment on environmental impacts involving historic properties and other cultural resources.

The ACHP also plays a key role in shaping historic preservation policy and programs at the highest levels of the Administration. It promotes consistency in Federal preservation efforts and assists Federal agencies in meeting their preservation responsibilities. The ACHP plays a pivotal role in the national historic preservation program. Founded as a unique partnership among Federal, State, and local governments, Indian tribes, and the public to advance the preservation of America's heritage while recognizing contemporary needs, the partnership has matured and expanded over time.

A staff of 35 carries out the day-to-day work of the ACHP and provides all support services for Council member programs.

## **NATIONAL GOALS AND LOCAL PUBLIC INTEREST IN HISTORIC PRESERVATION IN THE WAKE OF HURRICANES KATRINA AND RITA**

**National interest.** It is in the interest of the citizens in the Gulf Coast, and indeed the Nation's collective interest, to ensure that the national patrimony reflected in the extensive historic districts, sites, buildings, structures, and objects affected by Hurricanes Katrina and Rita throughout the region be carefully considered and incorporated into recovery planning and rebuilding efforts.

While much national attention has been focused on New Orleans and its historic character, there has been widespread destruction and extensive damage to historic properties in surrounding parishes in Louisiana as well as in the states of Mississippi, Alabama, and Texas. Portions of coastal Mississippi, Louisiana, and southeast Texas have sustained major losses, and a number of smaller historic communities have had many of their historic resources significantly damaged or destroyed. State historic preservation offices, and national, statewide and local preservation organizations are just now beginning to comprehend the breadth and scope of destruction from the storms and the further destruction that may result from recovery operations. The need to treat the thousands of flood-damaged structures in New Orleans, as well as wind and water-damaged properties elsewhere, remains acute, and poses one of the most critical historic preservation challenge ever faced. For example, it is estimated that over 200,000 structures in the city of New Orleans were damaged. The city of New Orleans has underway initial condition assessments of these structures and has already "red-tagged" hundreds for potential removal. Many of this growing list of "red-tagged" structures will include contributing structures within established historic districts or structures that will meet the criteria for listing in the National Register of Historic Places either individually or as part of eligible historic districts.

**Past involvement with FEMA.** Through the consultation that it has had with FEMA during the past 16 years on a variety of declared natural and man-made disasters, the ACHP has come to appreciate FEMA's increasing understanding of historic preservation issues and developing sophistication in meeting its Section 106 responsibilities. The ACHP has worked closely with FEMA since the fall of 1989 when *Hurricane Hugo* and the *Loma Prieta* earthquake focused national attention on the damage these natural events caused to hundreds of historic properties. Although FEMA had from time to time conducted Section 106 reviews prior to these disasters, the magnitude of the damage and its effects on historic properties raised unexpected challenges for FEMA, which at that time had no staff with historic preservation expertise. In the years that followed, ACHP worked with FEMA and local stakeholders on an array of natural disasters. Although the nature of FEMA's mission did not always allow adequate time for normal Section 106 review, and operated under special emergency provisions of the ACHP's implementing regulations, the SHPOs and the ACHP worked with FEMA to develop tailored approaches to these situations. These strategies provide for the identification of historic properties, public outreach efforts, and the consideration of the potential effects of FEMA's undertakings during disaster recovery.

By the time *Hurricane Iniki* (1993) caused extensive damage on the island of Kauai, FEMA had a historic preservation program in place that was able to respond to the devastating *Midwest Floods* (1993), which affected historic neighborhoods and districts along the Missouri and Mississippi

Rivers. FEMA, working with the ACHP and the SHPOs in affected states, developed a comprehensive programmatic agreement for how these resources would be considered during recovery. A similar programmatic approach was used by FEMA for the *Northridge Earthquake* (1994) and even more streamlined agreements were put in place for the *Nisqually Earthquake* and *World Trade Center* site in 2001. In each of these events, FEMA and its historic preservation partners capably dealt with how best to balance the needs of recovery with the goals of historic preservation.

Building on these efforts, and based on the growing capability of FEMA's historic preservation program, the ACHP worked with FEMA to develop a state-based programmatic agreement designed to minimize the time it takes to review routine projects; encourage earlier and closer coordination among FEMA, SHPO, and State Emergency Management Agency (SEMA) staff; and provide FEMA with the opportunity to educate sub-grantees about FEMA preservation responsibilities. Thirty-five such state agreements are now in effect, with the Louisiana agreement completed one year ago. While the statewide agreement provides a good roadmap, the aftermath of Hurricanes Katrina and Rita represents a challenge to FEMA and its historic preservation partners that is unprecedented. The scope of the disaster will overwhelm the terms of the statewide agreement and the capability of SHPO and ACHP staff to meet their responsibilities under the agreement. FEMA and the ACHP anticipate that a more tailored and systematic approach will be needed. This is particularly true for New Orleans where massive demolition of properties is being contemplated to address widespread flooding damage.

**Federal role.** Humanitarian relief and basic necessities for the citizens of the region have obviously taken precedence in the recovery effort. However, to date staff from the ACHP have met with officials from the FEMA and the affected SHPOs regarding Gulf Coast recovery efforts. We discussed recovery plans and how best to structure Section 106 review and consultation, given the scale of destruction and damage to historic properties and the trauma experienced by the region.

ACHP staff has also been participating in national coordination of assistance efforts through membership and participation in the Heritage Emergency National Task Force. Sponsored by the nonprofit Heritage Preservation and (FEMA, the Task Force is a partnership of 39 Federal agencies and national service organizations. Together its members constitute a nationwide resource of information, expertise, and assistance. The Task Force was formed in 1995 to help libraries and archives, museums, historical societies, and historic sites better protect their collections and buildings from natural disasters and other emergencies. The Task Force promotes preparedness and mitigation and provides expert information on response and salvage to institutions and the public, and is serving as a clearinghouse of technical assistance and information on funding support for preservation activities.

In all of these discussions to date the following points were noted:

1. The region's historic properties are extremely important, not only as a significant representation of the Nation's architectural and historical heritage, but also as key economic assets that make substantial contributions to the quality of life in these communities as well as to the local, state, and national economy as major attractions for visitors through heritage tourism.
2. It is very important that Section 106 be a part of the solution since so much of the recovery work will be carried out or funded by the Federal Government and thus subject to review under section 106. Section 106, and its reliance on stakeholder participation

and negotiated solutions, can provide a critically needed community forum for resolving competing plans for treatment to historic properties.

3. In addition to general support to address structural damage, targeted funding is needed for repair and restoration work on some of the most significant historic properties that have been seriously damaged.
4. The scope of damage to historic properties is likely to overwhelm the ability of the affected SHPOs to respond and carry out their essential role under Section 106. Critically under-funded, at least some of these state offices now confront the likelihood of serious budget cuts due to storm-related state revenue losses. These cuts are likely to directly affect the SHPO's ability to adequately respond to the overwhelming needs, including having sufficient staff for Section 106 considerations.
5. Section 106 and leadership from the ACHP are needed to help reconcile differences about recovery strategies and priorities that may arise among historic preservation interests and with the affected local government entities and residents.

**Recommendations.** The role and ability of local historic preservation and landmarks organizations to actively participate in assessments, decisions, and future planning needs to be clarified. Many of these organizations have the local knowledge and expertise, but are lacking funding and other resources, and currently have insufficient personnel. These organizations need to be supported so they can play a significant role in working with Federal and State officials for historic preservation review and consultation under Section 106 of the National Historic Preservation Act. FEMA needs to provide assistance to help underwrite this essential work. Likewise, funding is needed for the ACHP and affected SHPOs so that Section 106 can help ensure that historic preservation values are fully considered as recovery efforts move forward. In summary:

- The Federal government should take an active role in supporting and assisting local damage assessment efforts for affected historic properties; ensuring that affected historic properties are adequately considered in local, state, and Federal planning and decision-making; and facilitating technical assistance and resources for supporting these efforts at the state and local levels. Effective identification of historic property impacts and issues will facilitate recovery efforts.
- The Federal government should provide direct assistance to ensure that State Historic Preservation Offices and local landmarks organizations have sufficient human resources, housing, transportation, and other support to address their respective responsibilities. This includes facilitating community and neighborhood consultation, and ensuring that the interests of underprivileged citizens in historic preservation-related decisions are fully and effectively represented. Sufficient capacity for SHPOs and local preservation agencies is essential for efficient recovery and reconstruction.
- Congress should provide targeted funding through the Historic Preservation Fund program for repair and restoration work on key nationally significant historic properties.
- Congress should routinely and as a national priority ensure adequate funding and support for both immediate and long-term efforts in disaster recovery as well as disaster preparedness by adequately supporting the programs and staff of the State Historic Preservation Officers, as provided in NHPA, through the Historic Preservation Fund. Better preparation for exigencies like these hurricanes will result, and damage

assessment and recovery efforts in future disasters will benefit historic resources and the public far more effectively than having to respond in a crisis situation. Better pre-disaster support will vastly improve governmental response when these unpredictable but unavoidable situations occur.

- The Federal government should offer technical and other assistance to facilitate ongoing communication, coordination, and public information in support of these efforts.

We appreciate the Subcommittee's interest in these issues, and thank you for your consideration and the opportunity to present our views.